

# Notification of Streambed Alteration

TRAC EXHIBIT 60  
DATE \_\_\_\_\_  
WITNESS: \_\_\_\_\_  
PAGE(S) \_\_\_\_\_

FOR DEPARTMENT USE ONLY  
KELLY FISHER  
Date Received 05/14/08 Amount Received \$200.00 Amount Due \_\_\_\_\_ Date Complete 1600-2008-0169-R5  
Notification No. \_\_\_\_\_

STATE OF CALIFORNIA  
DEPARTMENT OF FISH AND GAME  
NOTIFICATION OF LAKE OR STREAMBED ALTERATION

Complete EACH field, unless otherwise indicated, following the enclosed instructions and submit ALL required enclosures. Attach additional pages, if necessary.

## 1. APPLICANT PROPOSING PROJECT

Name DE Bill & JOBI MORITZ  
Business/Agency \_\_\_\_\_  
Street Address 14272 JEROME DRIVE  
City, State, Zip POWAY, CA 92064  
Telephone 858 735-5589  
Email DEBill@ShareKids.com

## 2. CONTACT PERSON (Complete only if different from applicant)

Name \_\_\_\_\_  
Street Address \_\_\_\_\_  
City, State, Zip \_\_\_\_\_  
Telephone \_\_\_\_\_  
Email \_\_\_\_\_

## 3. PROPERTY OWNER (Complete only if different from applicant)

Name \_\_\_\_\_  
Street Address \_\_\_\_\_  
City, State, Zip \_\_\_\_\_  
Telephone \_\_\_\_\_  
Email \_\_\_\_\_

## 4. PROJECT NAME AND AGREEMENT TERM

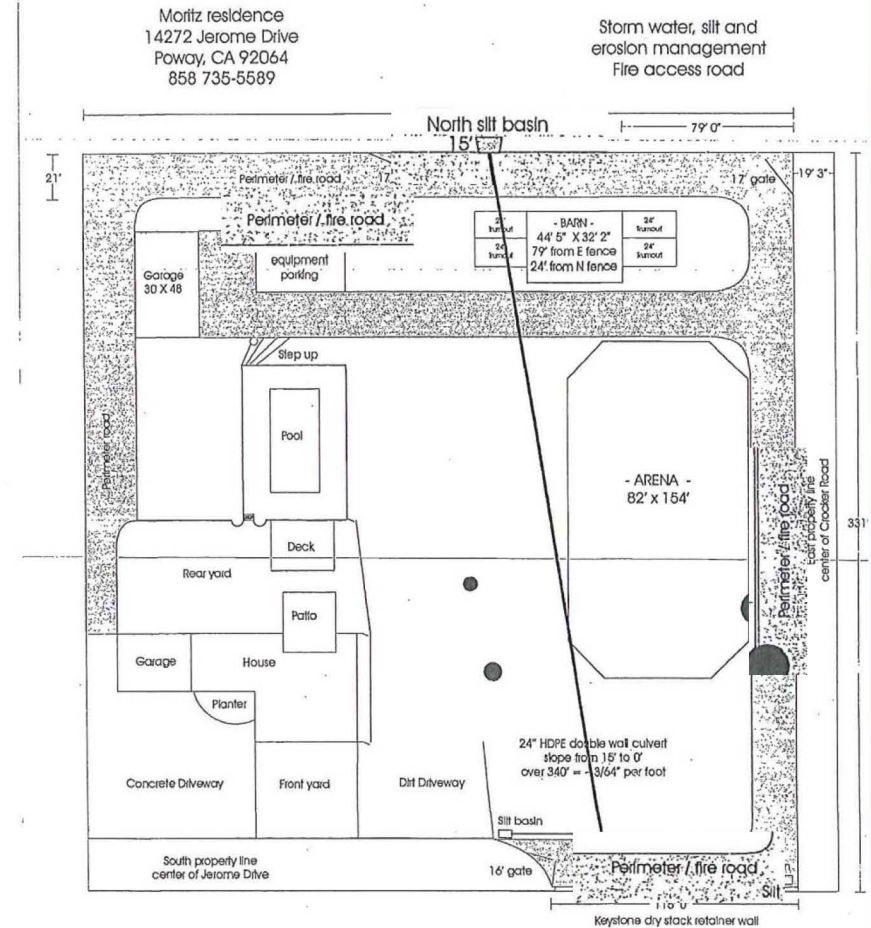
A. Project Name \_\_\_\_\_  
B. Agreement Term Requested ☐ Regular (5 years or less) ☐ Long-term (greater than 5 years)  
C. Project Term \_\_\_\_\_ D. Seasonal Work Period \_\_\_\_\_ E. Number of Work Days \_\_\_\_\_  
Beginning (year) \_\_\_\_\_ Ending (year) \_\_\_\_\_ Start Date (month/day) \_\_\_\_\_ End Date (month/day) \_\_\_\_\_

FG2023

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CNO # R9-2008-0074

Place ID 719044  
Party ID 472125  
Reg. Number 347272



Q2.

Storm water, silt and  
erosion management  
Fire access road



## CITY OF POWAY

MICKEY CAFAGNA, Mayor  
BOB EMERY, Deputy Mayor  
MERRILEE ROYACK, Councilmember  
DON HIGGINSON, Councilmember  
BETTY REXFORD, Councilmember

RECEIVED

MAY 19 2008

CITY OF POWAY  
DEVELOPMENT SERVICES

May 19, 2008

## NOTICE OF VIOLATION

Property Owner

Lori C. Moritz  
Bill Moritz  
14272 Jerome Drive  
Poway, CA 92064

Subject: Illegal Grading at 14272 Jerome Drive (APN: 321-040-49)

Dear Property Owner:

Recent inspections by the Poway Engineering Inspectors have revealed the following Poway Municipal Code (PMC) Violations:

- 1) Material has been deposited into a watercourse which may impede the flow of water (PMC 16.58.020(A)).
- 2) The surface of land has been altered so as to reduce the capacity of a watercourse (PMC 16.58.030(B)).

You have been notified of these violations by Engineering Staff in writing and in person, and you have contacted city staff with your plans to remedy them. The violations have not been corrected, however. Please correct the above violations by June 2, 2008. If you have specific questions about correcting these violations, please contact Sam Tadros, Land Development Engineer, at (858) 668-4652.

Failure to correct these violations may result in administrative citations, a Notice of Violation recorded on your property, and referral to the City Attorney. Thank you for your cooperation in this matter. I may be reached at (858) 668-4663 or (858) 668-4668. My fax number is (858) 668-1212.

Sincerely,  
DEVELOPMENT SERVICES DEPARTMENT

Tomás Borobia  
Code Compliance Officer

c: Sam Tadros, Development Services, Land Development Engineer  
Danis Bechter, Engineering Inspection Supervisor

M:\Planning\Tommy\CourtesylImprovements\Grading.docx

City Hall Located at 13325 Civic Center Drive

Mailing Address: P.O. Box 789, Poway, California 92074-0789 • (858) 668-4400

City's May 19,  
2008 letter

**Bill Moritz**  
*understood this as  
authorizing the  
work he proposed  
in the Notification  
of Streambed  
Alteration.*

From Ex. 11



# Tentative CAO

Supporting Document No. 2

## CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD SAN DIEGO REGION

### TENTATIVE CLEANUP AND ABATEMENT ORDER NO. R9-2008-0152

#### FOR

Dr. William & Lori Moritz  
14272 Jerome Drive  
Poway, CA

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board), finds that:

1. Dr. William & Lori Moritz are the owners and residents of a single family residential home, with associated out-buildings located at 14272 Jerome Drive, in Poway, California (APN # 321-040-49). The property occupies an area of approximately 2.45 acres.
2. On or before February 7, 2008, Dr. Bill Moritz (hereinafter Dr. Moritz) discharged waste (from unknown locations) at 14272 Jerome Drive, Poway, CA (hereinafter referred to as Site) which consists of sand, silt, clay, or other earthen materials into an unnamed, ephemeral stream that is tributary to Poway Creek in violation of the California Water Code. Additionally, Dr. Moritz installed approximately 340 feet of 24-inch high-density polyethylene (HDPE) pipe and associated structures to convey upstream drainage across his property. Attachment No. 1 includes a June 9, 2008 Regional Board Facility Inspection Report and photographs taken from various sources documenting site conditions and the discharge event, including described observation of the subject site.
3. The ephemeral stream course may be determined to be jurisdictional waters of the United States. The United States Army Corps of Engineers is the lead Federal agency with jurisdiction to issue Clean Water Act Section 404 permits to allow short term and long term impacts to waters of the United States.
4. The ephemeral stream watercourse is by definition a water of the State as defined by Section 13050(e) of the California Water Code (CWC).
5. The discharge of waste and sediment at and from the Site causes and threatens to cause a condition of pollution by directly affecting waters used for beneficial uses. Discharges of sediment and other inert material alter the hydrologic and sediment transport regimes of the stream channel by affecting the flow of water and establishment of vegetation. Such changes may lead to adverse conditions such as flooding, increases in suspended sediment and turbidity, accelerated erosion of the adjacent channel bed or banks, and localized accumulation of deleterious materials. Additionally, such discharges directly threaten habitat for aquatic species dependent upon native sediment and vegetation characteristics.
6. The unauthorized discharge of waste by Dr. Moritz is in violation of CWC Sections 13260(a) and 13264(a) which require that any person discharging waste or proposing to discharge waste within any region, other than to a community sewer system, which could affect the quality of the waters of the State, shall file a report of waste discharge (ROWD). The discharge of dredged or fill material may constitute a discharge of waste that could affect the quality of waters of the State.
7. Any person that violates CWC Sections 13260(a) and/or 13264(a) is guilty of a misdemeanor and may subject Dr. Moritz to civil liability in accordance with CWC Sections 13261<sup>1</sup> and 13265<sup>2</sup>.
8. The unauthorized discharge of waste by Dr. Moritz is in violation of the following waste discharge prohibitions contained in the Water Quality Control Plan for the San Diego Basin (Basin Plan):
  - "1. The discharge of waste to waters of the state in a manner causing, or threatening to cause a condition of pollution, contamination or nuisance as defined in CWC Section 13050, is prohibited;"
  - "3. The discharge of pollutants or dredged or fill material to waters of the United States except as authorized by an NPDES permit or a dredged or fill material permit (subject to the exemption described in California Water Code Section 13376) is prohibited;" and
  - "14. The discharge of sand, silt, clay, or other earthen materials from any activity, including land grading and construction, in quantities which cause deleterious bottom deposits, turbidity or discoloration in waters of the state or which unreasonably affect, or threaten to affect, beneficial uses of such waters is prohibited."

<sup>1</sup> WC section 13261 (a) states that: Any person failing to furnish a report under 13260 when so requested by a regional board is guilty of a misdemeanor and may be liable civilly...

<sup>2</sup> WC section 13265 (a) states that: Any person discharging waste in violation of WQC 13264, after such violations has been called to his attention in writing by the regional board, is guilty of a guilty of a misdemeanor and may be liable civilly... Each day of such discharge shall constitute a separate offense.





Unpermitted 14"  
corrugated metal pipe

Other unpermitted  
CMPs (2)

Ephemeral  
stream?

Contour  
grading?

Hay-bales are  
BMPs?



## **RWQCB has not considered the discharger's resources**

**Q Do you have any information about the financial ability of the Moritzes?**

**A I do not.**

**Q Does anybody within the RWQCB?**

**A I don't know.**

Deposition of RWQCB staff Christopher Means at 105:6-106:3

# **RWQCB relies on warrantless searches and on others' hearsay statements made after warrantless searches**

**Q Did you have an inspection warrant when you went out to my client's property on June 9, 2008?**

**A No.**

[Deposition of Christopher Means at 26:9-11]